

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Docket # 05-10393 GAO

Robert Pingaro,
Plaintiff,

vs.

Town of Saugus,
Defendant.

ANSWER OF THE DEFENDANT TOWN OF SAUGUS

Defendant Town of Saugus ("Saugus") hereby answers the complaint of the Plaintiff Robert Pingaro as follows:

FIRST DEFENSE

Defendant Town of Saugus responds to the numbered paragraphs of Plaintiff's complaint as follows:

1. Saugus is without sufficient information to either admit or deny the allegations of paragraph one, except that Saugus specifically denies that the land referred to was filled in over the years by Saugus and that the property was an old dump site. Saugus admits that permits to build were issued for the property.
2. Saugus denies that it filled in the plaintiff's lot over the years. Saugus admits that the lot has been the subject of a letter from the Board of Health. Saugus is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph two.
3. Saugus denies that this court has jurisdiction over this matter pursuant to 28

U.S.C. Section 1332. Saugus admits that plaintiff is a resident of the town of Saugus and that he resides at 258 Central Street, Saugus, Massachusetts. There are no other allegations of paragraph three that require an answer.

SECOND DEFENSE

There is no diversity of citizenship in this matter, this court lacks jurisdiction over the subject matter and this matter ought to be dismissed.

THIRD DEFENSE

There is no federal question jurisdiction over this matter, this court lacks jurisdiction over the subject matter and this matter ought to be dismissed.

FOURTH DEFENSE

Plaintiff fails to state a legal claim upon which relief may be granted as plaintiff's complaint sets forth no basis under state or federal law for any recovery against the Defendant Town of Saugus.

FIFTH DEFENSE

Defendant Town of Saugus is immune from liability under state law, under the provisions of Massachusetts General Laws Chapter 258, Section 10, and in particular, subparagraph (f) of Section 10.

SIXTH DEFENSE

Plaintiff's action is barred by the applicable period of limitations.

SEVENTH DEFENSE

Plaintiff has failed to satisfy the prerequisites for a lawsuit against the Town.

WHEREFORE, Defendant Town of Saugus respectfully requests this Honorable Court to dismiss this action with prejudice, and with an award of costs to the Defendant Town of Saugus.

By its Attorney,

/s/ Ira H. Zaleznik
Ira H. Zaleznik (BBO#538800)
Lawson & Weitzen, LLP
88 Black Falcon Avenue, Suite 345
Boston, MA 02110
(617) 439-4990

Dated: May 18, 2006

CERTIFICATE OF SERVICE

I, Ira H. Zaleznik, Esq., certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF). Paper copies will be sent to those indicated as non-registered participants on May 18, 2006.

By its Attorney,

/s/ Ira H. Zaleznik
Ira H. Zaleznik (BBO#538800)
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